



# SUMMARY COURTS- MARTIAL

THE TRAP

# UNSEEN EVIL ENEMY OF THE COMMANDER

- ALLOW CRIME TO GO UNPUNISHED
- PERPETUATE CRIME IN YOUR UNIT

POORLY DONE SUMMARY  
COURT



WILL BE  
OVERTURNED

# PROBLEM: LAWYERS



# OUTCOME:

- LAWYERS FEEL SUPERIOR AS THEY OVERTURN YOUR CONVICTIONS

# OBJECTIVES:

- CHOOSE THE CORRECT LEGAL WEAPONS TO OVERCOME THIS EVIL
- PREPARE FOR COUNTER-ATTACK AND AMBUSH



BOTTOM LINE—MISSION :



**USE SCM  
EFFECTIVELY**

# TOOLS:

- HANDBOOK
- FAQ SHEET
- MANUAL FOR COURTS-MARTIAL  
(2000)  
CHAPTER XIII





## GOOD RULE:

- IF IT IS GOOD ENOUGH FOR A SUMMARY, IT IS GOOD ENOUGH FOR A SPECIAL

# WHEN:

- GUILTY PLEA
- SURE THAT ACCUSED IS PROVIDENT
- (HE REALLY DID IT, AND CAN SAY IT WITH A STRAIGHT FACE, AND WILL)

# WHO



ALWAYS SAFER TO PREFER  
TO A SPECIAL AND

PRE-TRIAL AGREEMENT WHEREIN  
**BARGAIN IT BACK**  
THE ACCUSED AGREES TO PLEAD  
GUILTY

- LAWYERS WILL DRAFT PTA

- HAMMER AWAITS IF HE BALKS



# SUMMARY COURTS- MARTIAL

DOING IT RIGHT

# CONVENING SUMMARY COURTS-MARTIAL

- BATTALION CO ONLY (equivalent)
- EXECUTIVE OFFICERS WHO ARE  
LEGITIMATELY COMMANDING  
-Not “acting” or “by direction”

# WHO MAY CONDUCT?

- COMMISSIONED OFFICER
- O-3 OR HIGHER PREFERRED
- MORE EXPERIENCE = FEWER ERRORS





CHARGING:

- MUST MEET ELEMENTS

- USE SAMPLE SPECIFICATIONS!!!!!!



# NJP IS DIFFERENT

- REQUIRES ONLY A GENERAL STATEMENT OF THE OFFENSE ALLEGED
- SCM HAS ALL REQUIREMENTS OF SPECIAL OR GENERAL COURTS-MARTIAL

# PREPARATION

- EXAMINE CHARGE SHEET / OTHER INFO
- PROCURE WITNESSES
- REVIEW OFFENSES (ELEMENTS)
- TRIAL GUIDES / ADMIN DOCS

# PREPARE SOME MORE:

- ASK MANY QUESTIONS
- ENSURE COMPLETENESS /  
ACCURACY OF PAPERWORK
- REPORT ANY IRREGULARITIES

# I WANT A LAWYER !!

- NO RIGHT TO MILITARY COUNSEL

- CIVILIAN COUNSEL OK IF NOT UNREASONABLE DELAY AND NO EXIGENCY

# CEA MORE TIME OF SUMMARY COURTS- MARTIAL

- RULES OF EVIDENCE

- THEY ALL APPLY!



EVIDENCE:

BIGGEST PROBLEMS :

HEARSAY

AUTHENTICATION

# HEARSAY AND THE 6<sup>TH</sup> AMENDMENT

- WITNESSES ONLY: PERSON MUST TESTIFY AT TRIAL
- NO POLICE REPORTS OR INVESTIGATIONS
- VERY DIFFICULT TO LEARN

# JUDGE ADVOCATE HELP: (mre's only take you so far)

- LAW SCHOOL
- NAVAL JUSTICE SCHOOL
- CONTINUING EDUCATION



# JUDGE ADVOCATES (CONT'D)

- BRILLIANT
- GOOD-LOOKING
- WELL-READ
- FUN-LOVING
- GREAT WITH KIDS
- UP ON CURRENT EVENTS



# TAKE YOUR WIFE'S ADVICE:

- PULL OVER AND ASK FOR  
DIRECTIONS

# SAFETY NETS:

- SUMMARIZED RECORD OF TRIAL
- NO VERBATIMS!!
- ENSURE EVIDENCE IS ADMISSIBLE  
B/4 TRIAL!!

# PROVIDENCY:

- GUILTY PLEA

- QUESTION HIM TO ENSURE ALL ELEMENTS ARE MET

# EXAMPLE:

- LARCENY OF GOODS IN EXCESS OF \$ 150
- TOOK
- KNEW IT WASN'T HIS
- BELONGED TO X
- MEANT TO KEEP
- MORE THAN \$150

# WHEN CAN ACCUSED OBJECT?

- BEFORE ARRAIGNMENT:

- TAKING OF PLEAS TO CHARGES

# SENTENCING:

- EVIDENCE IS DIFFERENT
- MAY CONSIDER MITIGATING / EXTENUATING FACTORS
- MAY ALSO CONSIDER AGGRAVATING FACTORS

# PUNISHMENTS:

- STAY WITHIN LIMITS FOR PAY GRADES
- E-5 / E-4 DIFFERENCES
- COMBINATIONS OF PUNISHMENTS
- LIMITS ON DAYS AND AMOUNTS



# PUNISHMENT

- NO FINES
- FORFEITURES OK, LOOK AT LATEST PAY CHART
- SCM CANNOT SUSPEND—RECOMMEND ONLY



WHEN IN DOUBT:

• SHOUT IT  
OUT

# SUMMARY COURTS- MARTIAL



QUESTIONS??